

FTB NOTICE

California Franchise Tax Board - Legal Division



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FTB NOTICE 92-6

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SUBJECT: RESEARCH AND EXPERIMENTAL EXPENDITURES

Revenue and Taxation Code section 24365 incorporates Internal Revenue Code section 174 by reference. These code sections allow taxpayers the initial choice of current expense treatment or deferred expense treatment of research and development expenditures. Once that choice has been made, the taxpayer must ask for and be granted permission to use a different reporting method for a particular research project. Under California law, these federal requests for permission are binding for franchise tax purposes unless the taxpayer asks for and is granted permission from the FTB to use a method different from the federal method.

Certain requests made after 1989 were allowed only on the condition that the taxpayer request and be granted permission from the Internal Revenue Service to use the same method. The effect of these conditional allowances was effectively to deny inconsistent state/federal treatment of this item.

The Franchise Tax Board has reconsidered the granting of conditional allowances and will now consider each request on its own merits. The Franchise Tax Board will no longer require that the taxpayer request and be granted permission to use the same method from the Internal Revenue Service. Taxpayers previously granted conditional approval may file amended returns using the method requested in the original request for all open years.

DRAFTING INFORMATION

The principal author of this notice is Bruce R. Langston of the Franchise Tax Board Legal Division. For further information regarding this notice, contact Mr. Langston at the Franchise Tax Board Legal Division, P.O. Box 1468, Sacramento, CA 95812-1468.